The rejection of claim 10 of use as a luggage device or general purpose cart is overcome by simply envisioning the contents of the containers of the cart of Fig 1 with clothing or general items such as groceries, making the cart a luggage or a grocery cart respectively. Similarly, a person may use their same recycle cart as a yard cart for say cleaning the yard or picking up topsoil or plants at a nursery (loads into car easily) to eliminate transfer from bag or box to a wheel barrow. Similarly, groceries are placed in the cart, cart disassembled for car transport, reassembled for rolling to apartment, and emptied in kitchen. Luggage would use the same novel concepts but would include locks and general luggage features. The novelty and subsequent advantages of the invention becomes clear as there is presently no other tiltable cart that would have these basic benefits. It was never the intent of the applicant to limit the use of the container system to refuse and/or recyclable materials, but only as a preferred use. Applicant respectfully requests advice on how to illustrate the full scope of the invention.

Claims 3-9 rejected due to lack of clarity
Claim 3 has been noted as "indefinite with unclear scope". If the following definitions are kept in mind, the claims and all discussion becomes clear:
-the **'means for securing' refers to forming (securing) the rigid entity** from one wheeled container and at least one attached container by handles (or alternative embodiments of telescopic fit, groove, over center clasp, or latch). A second attached container is secured on top of the already secured (first) attached container by the same method as the (first) attached container was secured to the wheeled container.
- **'means for connecting' refers to hitching** and is introduced in claim 3 by the phrase "further including a means for connecting" and later narrowed to "hitch" in claim 8 and will always imply the hitching or connecting of a first wheeled container with a second wheeled container. The first or second wheeled containers may be a single entity that is formed by securing at least one attached container on top of a wheeled container. The first and/or second containers may also be a one piece container such as refuse container.

ORIGINAL CLAIM

3. The system of claim 1 further including a means for connecting said wheeled container secured to said attached container to said wheeled container secured to said attached container for rolling in the tilted position.

PROPOSED CHANGE

3. The system of claim 1 further including a means for connecting said wheeled container secured to said attached container to *a second* said wheeled container secured *to a second* said attached container for rolling in the tilted position.

Applicant agrees with examiner that the claim is clearer but is concerned that an additional claim is now required because adding a 'second' may result in the exclusion of a plurality of connected containers, so then 'plurality' would then have to be added somewhere so that the claim to includes say three sets of connected containers, which may or may not be secured (rigid) together. This would result in wordiness, loss of clarity and / or additional claims, so applicant would prefer original in light of the clarification of the terms "secured" and "connected". Applicant requests and welcomes any constructive assistance and suggestions on this issue regarding claim 3 or any other claims that would help define the full scope of the invention.

Claim 7 to include "whereby adjoining containers are secured and tilted for rolling containers are connected, but excluding securing lids onto containers."

6. The system of claim 5 wherein said means for securing said wheeled container to said attached container is a handle, telescope fit, groove, over center clasp, or latch.

7. The system of claim 6 wherein said handle is the handle described in US 4,691,840 FERBRACHE patent, whereby adjoining containers are secured and tilted for rolling containers are connected, but excluding securing lids onto containers.

Applicant defines the inclusion and exclusion, as requested so that claim 7 is no longer indefinite, by adding "whereby adjoining containers are secured and tilted for rolling containers are connected, but excluding securing lids onto containers". This will make the claim no longer omnibus, but clearly defines the new use for the Ferbrache and thus overcomes the prior art of the handles for use as a lid securing device.

The applicant requests reconsideration of the 35 U.S.C. 102 rejection of claim 1-9 for the following reasons of patentable distinction from Evans for the following reasons;

1. EVANS TEACHES COMPRESSING CONTAINERS ONTO A CART, NOT SECURING A CONTAINER TO AN ADJOINING CONTAINER AT THEIR INTERFACE

Evan's simultaneous binding of more than one container onto a cart by compressing containers and lids between a single strap and a plate cart 28, is physically distinct from applicant's securing each pair of independent containers at their adjoining interface, and physically distinct in terms of each pair of container's adjoining interface having an independent means for securing apart from other adjoining interfaces. The following elaborates the **distinctions of means and function over Evans**:

a) Evans has cart 28 which he entitles "cart" not container, because it has no refuse contents and is designed solely for rolling non wheeled containers
Applicant has no cart.

b) Evans binds containers onto a cart
Applicant secures containers to each other

c) Evans securing force is between a strap and a plate cart 28
Applicants securing force is between adjoining interfaces

d) Evans means for securing is a single device for all containers transported
Applicant's means for securing is a pair of devices (handles) for each container transported

e) Evan's means for securing is a single operation that secures all containers simultaneously
Applicant's means for securing is number of operations for each independent pair of containers

f) Evan's means for securing must be altered (strap shortened or lengthened) depending on number of containers selected
Applicant's means for securing is unaltered and independent of the number of containers selected

g) Evans' means for securing is a separate device from the container and is integral to the cart
Applicant's means for securing is part of the container and also is used for lifting and hitching.

2. EVANS FELT UNSOLVED NEED TO FORM A RIGID ENTITY BUT FAILED TO REALIZE APPLICANTS NOVEL SOLUTION

Evans offers a metal tube hand cart 54 (hand dolly design) to transport the containers to the curb which would cost significantly more than some latches or handles (probably more than his containers), as well as still requiring a strap to hold the containers on the hand cart . As an alternative attempt to reduce the cost of transportation Evans uses a plate cart 28 and a strap, each costing more than latches or handles and requiring cumbersome application. This clearly demonstrates that Evans suffered the long felt need of

forming a rigid entity for tilted transport of independent containers. and being skilled in the art failed to realize applicant's novel solution.

3. EVANS COULD HAVE EASILY INCORPORATED APPLICANT'S NOVEL SOLUTION WITHOUT LOSING ANY DESIGN BENEFITS

If Evans had anticipated claim 1. then he would have added a latch. similar to Fig 8. to permanently secure the container lids to the container. and a releasable latch that would secure the upper assembled lid plus container to the lower assembled lid plus container to still allow for separate dumping. In the configuration where Evans does not use lids. it would have been even simpler to add a means to secure upper and lower containers. such as claimed by applicant. to overcome the rigid entity problem. By doing so Evans would have not lost the design benefits of "stack and nest" for shipping/retail. lids with odor/ precipitation resistant doors. or independent dumping.

4. APPLICANTS DESIGN WOULD ACHIEVE UNEXPECTED RESULTS IF USED BY EVANS

As explained in 2. and 3.. Evans could have reduced his overall system cost by eliminating his cart by simply adding a projecting latch that would be molded simultaneously with his container or lid. for a one time extra cost to the existing mold plus the additional plastic cost. The cost of the strap with tensioning device is also eliminated as well as the labor cost to secure the strap to the cart. The strap would become wet and dirty and requires operator bending to ground pick up. looping over pile of containers and bending to ground to secure to cart base. and then some form of tensioning action. It would also require lengthening or shortening if the number of containers change. Savings in terms of distribution shipping and shelf space of the cart and strap are also eliminated.

5. EVANS DOES NOT SUGGEST APPLICANTS NOVEL FEATURES BUT TEACHES AWAY FROM IT

Evans uses the conventional ways of transportation of either a hand dolly cart 54 or a plate cart 28 with a conventional load binding strap to hold the containers on it. The handle or alternative embodiment joint designs that secure each container independently at their adjoining interface is not suggested by Evans.

6. EVANS TEACHES AWAY FROM APPLICANTS WHEELED CONTAINERS AND EACH LEVEL OF CONTAINER BEING DISTINCT IN DIMENSION

Evans follows the path of stackable. nestable containers to all be similar in dimension and shape. and avoids nest and (180 degree) turn to prevent opening alignment problems. He also does not have wheels integral with the bottom level of container. and uses an offset seating arrangement when no lids are used in order to allow nesting and stacking. Applicant teaches a wheeled container and each level of container is different in dimension. requiring a specific order. Applicant overcomes the nesting problem by having the container placed on top to be wider but shorter than the lower one. thus allowing a lower container to nest inside the upper container for storage for a single pile. A single pile of containers would be limited to probably 5 high before it becomes impractical and unstable. Multiple piles of containers can still have similar levels nest for distributor's needs.

7. CROWDED ART

The applicant has reviewed a large number of patents and prior art in this field. The Evans patent. which is the only one that even slightly resembles applicant's. upon closer examination. is clearly different in it's elements and operation. In any crowded classification such as this one. even a small step forward is considered significant and that the many new and unexpected substantial results obtained over Evans must be directly due to the novelty of this invention.

8. THE LIMITATION OF 'ADJOINING' OVERCOMES EVANS 35 U.S.C. 102(b)
Claim 1, c) limits the claim to **adjoining** containers and
"1.c) a means for securing adjoining said wheeled container to said attachable container . The word adjoining thus overcomes Evans and clearly limits the scope on the invention, and defines the patentability of the invention over Evans.

The applicant requests reconsideration and allowance of the claims of 1-9 with regards to Evans under 35 U.S.C. 102 according to reasons 1.-8. above.

The applicant requests reconsideration of the 35 U.S.C. 102 rejection of claim 1-9 for the following reasons of patentable distinction from for the following reasons;

1. TOLBERT'S SYSTEM WILL NOT FUNCTION FOR ROLLING IN THE TILTED POSITION
Even if Tolbert rearranged his wheel positions, reduced the number of wheels to two, and changed these two to non castering wheels, the system would still not function in the tilted position because the hitch which is located centrally along the vertical height, would result in the top of the trailing container binding on the top left or right sides of the leading container as the train travels about a curve or incline. Even after changing the wheels and if the hitch was moved to the top of the containers, the additional height increase caused by the tilting would lift the towed container off the ground before the balance point was reached. If the handle was then lengthened to prevent the lifting of th towed container, the lengthening would result in the container sides not be able to touch each other in the vertical position unless they are unhitched.

2. APPLICANT'S SYSTEM WILL NOT FUNCTION FOR ROLLING IN THE VERTICAL NON- TILTED POSITION
The applicants containers will not roll unless tilted because there are no wheels on the base on the side adjacent to the pulled handle. Even if wheels were placed here, the handles would have to be lowered or the operators pulled container or the towed container would tip if either caught their wheels on a projected edge.

3. TOLBERT DOES NOT SUGGEST TILTING OF HITCHED CONTAINERS- Tolbert being skilled in the art nowhere suggests tilting containers during either transport or hitching.

4. NEW AND UNEXPECTED RESULTS ACHIEVED BY HITCHING IN TILTED POSITION
Tolbert states that this system is for use in "manufacturing environments". The following new and unexpected results are achieved when containers are hitched in the tilted position:
a) AMAZING STABILITY ALLOWS TRAVEL ON STAIRS- Tilting while towing overcomes the curbs and projected edges typically found on the way to the roadside and even stairs. The larger wheels are also beneficial, but by themselves would still not be sufficient in towing a train of containers over a curb. As well, applicant's tilted system results in the two hitched containers being more stable than a single non hitched container.
b) NO BENDING OVER AND IMPROVED VISIBILITY -The hitching operation is performed in an ergonomically and visually convenient area above the containers, not at center height.
c) CONTAINERS ARE SELF SUPPORTING IN TILTED POSITION - A single container would obviously fall over if released in the tilted position. Two or more containers released in the tilted position lock each other and prevent falling over.
d) APPLICANTS HITCH ALLOWS ONE CONTAINER TO BE TILTED AT A TIME- Tilting hitched containers would be very difficult if all the containers in train had to be tilted simultaneously. Applicants novel hitch design allows towed container to be tilted while the lead container remains vertical, but also allow all containers to be tilted simultaneously when empty.

e) HITCHING DOES NOT HAVE TO BE PERFORMED WHILE TILTED- Applicants novel hitch design allows container hitching performed in the vertical as well as the tilted position
f) SHARP CORNERING UP TO 90 DEGREES- Non tilted hitching can obtain 90 degrees only if the hitch on both lead and tow containers have been lengthened to create enough distance between containers so as to prevent container sides from abutting each other. This however causes awkwardness in terms of lengthening the train and protruding parts when unhitched. Tolbert's configuration will permit a maximum of 67 degrees of bending (see appendix), while applicant can bend 90 degrees.
g) TWO LARGE WHEELS ONLY BECOMES POSSIBLE- Applicant's system eliminates wheels in excess of two wheels where the container train dollies cannot be assembled prior to securing containers on dollies. Two wheeled containers would not stand vertically by themselves. More than two wheel systems, such as Tolbert's use smaller wheels to reduce overall height to maintain stability.

5. The many benefits stated in 4. above clearly are evidence to the novelty of the applicants invention for the following reasons:
a) LACK OF IMPLEMENTATION-those skilled in the art have not implemented applicant's tilted for rolling hitch, indicates that it is not obvious
b) SOLUTION TO A LONG FELT AND UNSOLVED NEED- When the containers are not hitched, a tiltable container is preferred over non-tiltable in terms of cost and stability, but such containers could not be hitched to each other or into a train.

6. ASSUMED UNWORKABILITY OVERCOME- Untill now, those skilled in the art never thought or were skeptical that hitched containers could function as a train, be easily tilted and hitched and be rolled in the tilted position.

7. TOLBERT TEACHES AWAY FROM APPLICANT- Applicants invention is contrary to Tolbert and what the prior art teaches

8. APPLICANT UTILIZES NEW PRINCIPLE OF OPERATION- Applicant has blazed a new trail rather than followed one.

9. THE LIMITATION OF 'system that is tilted from free standing position for rolling' OVERCOMES TOLBERT 35 U.S.C. 102(b)
Claim 1. Includes the limitation by the phrase "that is tilted from the free standing position for rolling" and thus overcomes Tolbert and clearly limits the scope on the invention, and defines the patentability of invention over Tolbert
claim 1 reads
1. A modular wheeled container system that is tilted from the free standing position for rolling comprising:
a) a wheeled container having a means for rolling
b) at least one attachable container, and
c) a means for securing adjoining said wheeled container to said attachable container.

The applicant requests reconsideration and allowance of the claims of 1-9 with regards to Evans under 35 U.S.C. 102 according to reasons 1.-9. above.

Tolbert and Evans do not contain any justification to support their combination, much less in the manner proposed.

"With regard to the proposed combination of Tolbert and Evans, it is well known that in order for any prior-art references themselves to be validly combined for use in a prior-art § 103 rejection, *the references themselves* (or some other prior-art) must suggest that they be combined. E.g., as was stated in In re Sernaker, 217 U.S.P.Q. 1.6 (C.A.F.C. 1983):

" [P]rior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining their teachings."

That the suggestion to combine the references should not come from applicant was forcefully stated in Orthopedic Equipment Co. V. United States, 217 U.S.P.Q. 193, 199 (CAFC 1983):

" It is wrong to use the patent in suit [here the patent application] as a guide through the maze of prior art references, combining the right references in the right way to achieve the result of the claims in suit [here the claims pending]. Monday morning quarterbacking is quite improper when resolving the question of nonobviousness in a court of law [here the PTO]."

As was further stated in Uniroyal, Inc. V. Rudkin-Wiley Corp., 5 U.S.P.Q.2d 1434 (C.A.F.C. 1988), "[w]here prior-art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than in the hindsight gleaned form the invention itself.... *Something in the prior art must suggest the desirability and thus the obviousness of making the combination.*" [Emphasis supplied.]

In line with these decisions, recently the Board stated in Ex parte Levengood, 28 U.S.P.Q.2d 1300 (P.T.O.B.A.&I. 1993):

" In order to establish a *prima facie* case of obviousness, it is necessary for the examiner to present *evidence*, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge, that one having ordinary skill in the *would have been lead* to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention.... That which is within the capabilities of one skilled in the art is not synonymous with obviousness.... That one can *reconstruct* and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies impetus to have led one of ordinary skill in the art to combine the teachings of the references to make the claimed invention.... Our reviewing courts have often advised the Patent and Trademark Office that it can satisfy the burden of establishing a *prima facie* case of obviousness only by showing some objective teaching in either the prior art, or knowledge generally available to one of ordinary skill in the art, that 'would lead' that individual 'to combine the relevant teachings of the references.' ... Accordingly, an examiner cannot establish obviousness by locating references which describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done."

In the present case, there is no reason given in the last O.A. to support the proposed combination and selectively substitute parts of one reference for a part of another reference (Evans' stacked and bound container on Tolbert's train) in order to meet applicant's novel claim.

The O.A. noted that the combination of Tolbert and Evans and Ferbrache discloses the invention. Applicant submits that the fact that the invention produces advantages over the proposed combination, militates in favor of *applicant* because it proves that the invention produces new and unexpected results and hence is unobvious.

As stated in the above Levengood case,

" That one can *reconstruct* and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the references to make the claimed invention."

Applicant therefore submits that combining Tolbert and Evans is not legally justified and is therefore improper. Thus they submit that the rejection on there references is also improper and should be withdrawn.

the applicant requests reconsideration of the 35 U.S.C. 103(a) rejection of claim 5 (recycle container on top of Tolbert's) and 6 (various securing means), for being unpatentable over Tolbert in view of Evans to increase the storage space and variety of space. Applicant has clearly limited dependent claim 5 to tilted for rolling containers. Reconsideration is requested for the following reasons;

1. Tolbert takes a different approach from Evans and reaches a different solution to a different problem. Since they teach away from each other, it would not be logical to combine them. Tolbert teaches hitching refuse containers while Evans teaches piling and binding recycle containers on a cart.
2. Each of the Tolbert and Evans systems is individually complete and functional in itself, so there would be no reason to use parts from Evans' to improve Tolbert's.
3. Tolbert nor Evans do not contain any suggestion, expressed or implied, that they be combined in the manner suggested.
4. Tolbert and Evans teach away, expressly or by implication from the suggested combination, since Tolbert teaches increasing the system capacity by hitching containers while Evans by stacking vertically.
5. Tolbert's containers are made inoperative by inaccessibility caused by adding a container on top.
6. The Tolbert container would require the modifications of an access opening, securing means and a height change for the hitch.
7. Even if combined, applicant's claimed features of tilted rolling are not met.
8. Even if combined, the synergism is less than applicant's, since the Tolbert train cannot be tilted because his hitch design, location and wheels do not allow it to be tilted.

1. Tolbert takes a different approach from Evans and reaches a different solution to a different problem. Since they teach away from each other, it would not be logical to combine them. Tolbert teaches hitching refuse containers while Evans teaches piling and binding recycle containers on a cart

The last office action states " *Evans teaches two containers 1 stacked on top of a wheeled container (cart 28) and a strap 31 as an over center clasp.*" Evans names "cart 28" a "cart" because of it's sole function for carting the containers. He does not name it a container, because it could not be used to physically hold refuse /recycle contents which is the targeted load to be contained. It cannot be construed as a container of a container because it does not envelope the container as is seen in the Anderson patent, where the recycle containers are fully enclosed by the wheeled container. Clearly Evans has no wheeled container let alone wheeled refuse container, and Tolbert has no recycle container nor tilted refuse container. Therefore, it would not be logical for someone skilled in the art to remove one of the Evans recycle containers and strap from the cart and attempt to bind it on top of Tolbert's refuse container.

The strap 31 would not logically be considered to be used as a device to secure two adjoining containers together because Evans is using it as a conventional load binding device to hold down a pile of loose objects onto a moving cart, as is commonly seen in the trucking industry. Even if the strap was seen as means for securing between adjoining containers, as suggested by the O.A., it is illogical to secure a container on Tolbert's because it is not necessary since it is not tilted or bouncing over curbs, as well as being an undesired laborious task to unsecure when contents are added.

2. Each of the Tolbert and Evans systems is individually complete and functional in itself, so there would be no reason to use parts from Evans' to improve Tolbert's.
Tolbert would not require securing because it does not or cannot tilt, and adding the operation of securing would be a laborious disadvantage.

3. Tolbert nor Evans do not contain any suggestion, expressed or implied, that they be combined in the manner suggested.
Neither Tolbert nor Evans in their objectives of their inventions, or any where else, express or imply any suggestion that their systems are incomplete or should be expanded or combined with other methods to produce other results.

4. Tolbert and Evans teach away, expressly or by implication from the suggested combination, since Tolbert teaches increasing the system capacity by hitching containers while Evans by stacking vertically.
Tolbert teaches that if you want to increase the capacity of the system, then hitch more containers onto the train, not securing containers on top as suggested by the combination. Evans teaches a system that increases its capacity by stacking higher, not hitching. Both these teachings would lead someone skilled in the art away from a solution of combining to increase capacity.
Even when the capacities of each system is maximized, Tolbert teachs the obvious solution would be to start a second train, while Evans would teach obtaining a second cart. Both clearly teach away from the combination in terms of increasing volume and variety, even after maximum capacity is reached.

5. Tolbert's containers are made inoperative by inaccessibility caused by adding a container on top.
Tolbert would not require securing because it does not or cannot tilt, and adding the operation of securing would be a laborious disadvantage. Every time an item needs to be added in to the wheeled refuse container, the operator would have to unsecure the container on top, lift up and hold with one hand while placing refuse in with the other hand then lowering container and securing. If the refuse item is large or heavy, requiring both hands, the container would have to be unsecured, lifted and placed on the ground, refuses placed, container lifted and placed on top and then secured. This would make the combination undesirable, unnecessary, inaccessible and hence inoperative. Tolbert does not show lids in his preferred embodiment for this reason. Even if an access opening was provided, it would have to be located on one of the sides of the train (hitched sides would have other container in the way), resulting in inaccessibility if the operator is on the opposite side of the train from the opening. The height of the hitch is proportional to the height of the container in order to maintain vertical stability during towing, so the increase in height of the added container, especially when upper container(s) full and lower container(s) empty would result in vertical instability hence inoperativeness. Clearly the inoperativeness of adding a container on top renders the combination unobvious.

6. The Tolbert container would require the modifications of an access opening, securing means, a height change for the hitch, and dimensional modification for stability.
In order to combine Tolbert and Evans, an access opening would have to made in the Tolbert container to allow the operation of adding contents for reasons explained in 5 above.
The means for securing of handles, rim of container modification, or alternative embodiments modifications would also be significant modifications relative to the complexity of Tolbert's design.
The height of the hitch is proportional to the height of the container in order to maintain vertical stability during towing. This hitch height would have to be raised if the lower container volume was unchanged.
Adding height to the Tolbert container adds vertical instability, especially when the upper container is full and the lower container empty, hence the lower container would have to be widened and shortened to maintain the same level of vertical stability. The sum of these changes requires relatively major modifications, relative to the complexity of Tolbert's design, and clearly makes combining unobvious.

7. Even if combined, applicant's claimed features of tilted rolling are not met.
The O.A. states "*Tolbert discloses the invention except for the stacking of an attached container on top of the wheeled refuse container*". Applicants main independent claim 1 clearly produces the many new and unexpected results as a direct result from tilting for rolling over the combination. Some of the results that are produced that are not found in the combination are stability over rough terrain and curbs, etc. fewer wheels, sharp cornering, visible and accessible hitch location, and many others (explained in detail in 4 of the 102 Tolbert comparison), so clearly the combination is not obvious and even when combined do not disclose the invention, nor meet the claimed features of the invention.

8. Even if combined, the synergism is less than applicant's, since the Tolbert train cannot be tilted because his hitch design, location and wheels do not allow it to be tilted.
The whole, that is the result achieved by applicants invention, is greater than the sum of the parts, as of the combination. Applicants invention produces the many new and unexpected results as a direct result from tilting for rolling over the combination. Some of the results that are produced that are not found in the combination are stability over rough terrain and curbs, etc. fewer wheels, sharp cornering, visible and accessible hitch location, and many others (explained in detail in 4 of the 102 Tolbert comparison) so clearly the combination is not obvious and even when combined do not disclose the invention, nor sums up to the whole of the invention in terms of results.

9. THE LIMITATION OF 'system that is tilted from free standing position for rolling' OVERCOMES TOLBERT IN VIEW OF EVANS 35 U.S.C. 103(a)
Claim 1. Includes the limitation by the phrase "that is tilted from the free standing position for rolling" and since claim 5 is dependent on claim 1, claim 5 thus overcomes Tolbert in view of Evans and clearly limits the scope on the invention, and defines the patentability of invention over Tolbert in view of Evans claim 1 reads

1. A modular wheeled container system that is tilted from the free standing position for rolling comprising:
   a) a wheeled container having a means for rolling
   b) at least one attachable container, and
   c) a means for securing adjoining said wheeled container to said attachable container.

CLAIM 5 IS DEPENDENT ON CLAIM 1 AND IS LIMITED TO TILTED FOR ROLLING
5. The system of claim 4 wherein said attached container is a recycle container on top of said refuse container.

> 6. The system of claim 5 wherein said means for securing said wheeled container to said attached container is a handle, telescope fit, groove, over center clasp, or latch.

The applicant requests reconsideration and allowance of the claims of 5 and 6 with regards to Tolbert in view of Evans under 35 U.S.C. 103(a) according to reasons 1.-9. above.

the applicant requests reconsideration of the 35 U.S.C. 103(a) rejection of claim 7(now amended), for being unpatentable over Tolbert in view of Evans and further in view of Ferbrache (handle). Reconsideration is requested for the following reasons;

The O.A. states that "*The combination of Tolbert and Evans discloses the invention except for the handle of Ferbrache. Ferbrache teaches a latching handle. It would have been obvious to replace the side handle of Tolbert with Ferbache's latching in order to incorporate a lid latch with no additional hardware and allow for secure lid locking so that refuse or recyclables do not inadvertently spill from the containers during transport.*"

1. Clearly from the applicant's reasons regarding the 103(a) Tolbert in view of Evans, the invention is not disclosed, and applicant also gives these reasons to be applied with regard to the claim 7 rejection.

2. THE FERBRACHE HANDLE IS CLAIMED AS A NEW USE PATENT FOR SECURING ADJOINING CONTAINERS AS WELL AS HITCHING TILTED FOR ROLLING CONTAINERS
Not only is the Ferbrache handle novel in terms of a new use for securing adjoining containers, it is even more remarkably novel in terms forming part of a tiltable hitch, especially when tiltable hitching by itself is novel. Claim 7 does not claim the Ferbrache handle as lid locking device, but rather as a new use for securing adjoining containers. If lids and handles are used for spillage prevention, this is not intended or claimed in any way, to be novel. The O.A. suggests that lids are part of the claim due to the similar benefit that the securing of a container on top has on the bottom container in terms of spill prevention. Applicant contests that **containers are not lids and that spill prevention is an unexpected result,** from the novel means of forming a rigid entity.

3. Tolbert, Evans and Ferbrache take a different approaches from each other and reach different solutions to a different problems. Since they teach away from each other, it would not be logical to combine them. Tolbert teaches hitching refuse containers while Evans teaches piling and binding recycle containers on a cart and Ferbrache teaches handles for holding lids and lifting.
Even if Tolbert and Evans could be combined, replacing Tolbert's hitch (not handle, as Tolbert states it's function was for hitching, and pulling, not lifting) with a lifting / lid locking device is illogical because it results in the loss of the lid locking as well as lifting, when moved to the central height location. If handle was moved to the top location, it still would not lock the lids because it would be in the open position during towing and the hitching at that location would result in the containers toppling forward when pulled.

4. Each of the Tolbert, Evans, and Ferbrache systems is individually complete and functional in itself, so there would be no reason to use parts from Ferbrache's and Evans' to improve Tolbert's.
Tolbert would not require securing of lids because it does not or cannot tilt, and adding the operation of securing would be a laborious disadvantage.

5. Tolbert, Evans and Ferbrache do not contain any suggestion, expressed or implied, that they be combined in the manner suggested.
Neither Tolbert, Evans or Ferbrache in their objectives of their inventions, or any where else, express or imply any suggestion that their systems are incomplete or should be expanded or combined with other methods to produce other results.

6. Even if Tolbert and Evans could be combined, they teach away, expressly or by implication from the suggested combination with the Ferbrache handle, since Tolbert teaches vertical no lid transportation and Ferbrache teaches lids for tilted transportation.

7. The proposed combination is made inoperative by inaccessibility caused by adding a lid on top and raising the hitch height. As well, the Ferbrache handle, if used at any height, will not allow tilting with the Tolbert wheel configuration. Clearly the inoperativeness of adding a lid, resulting in unnecessary securing and unsecuring for vertically transported containers, and its inability to tilt renders the combination unobvious.

8. The Tolbert container would require the modification of a height change for the hitch an a edge change to hold lid.
The sum of these changes requires relatively major modifications, relative to the complexity of Tolbert's design, and clearly makes combining unobvious.

9. Even if combined, applicant's claimed features of tilted rolling are not met.
The O.A. states that "*The combination of Tolbert and Evans discloses the invention except for the handle of Ferbrache*". Applicants main independent claim 1 clearly produces the many new and unexpected results as a direct benefit from tilting for rolling, over the combination. Some of the results that are produced that are not found in the combination are stability over rough terrain and curbs, etc, fewer wheels, sharp cornering, visible and accessible hitch location, and many others (explained in detail in 4 of the 102 Tolbert comparison) so clearly the combination is not obvious and even when combined do not disclose the invention, nor meet the claimed features of the invention.

10. Even if combined, the synergism is less than applicant's, since the Tolbert/Evans train cannot be tilted because his hitch design, location and wheels do not allow it to be tilted.
The whole, that is the result achieved by applicants invention, is greater than the sum of the parts, as of the combination. Applicants invention produces the many new and unexpected results as a direct result from tilting for rolling over the combination. Some of the results that are produced that are not found in the combination are stability over rough terrain and curbs, etc, fewer wheels, sharp cornering, visible and accessible hitch location, and many others (explained in detail in 4 of the 102 Tolbert comparison) so clearly the combination is not obvious and even when combined do not disclose the invention, nor sums up to the whole of the invention in terms of results.

11. THE LIMITATION OF 'system that is tilted from free standing position for rolling' OVERCOMES TOLBERT IN VIEW OF EVANS AND FURTHER IN VIEW OF FERBRACHE 35 U.S.C. 103(a)
Claim 1. Includes the limitation by the phrase "that is tilted from the free standing position for rolling" and " securing adjoining containers" and since claim 7 is dependent on claim 1, claim thus overcomes the objection and clearly limits the scope of the invention, and defines the patentability of invention over Tolbert in view of Evans and further in view of Ferbrache.
claim 1 reads
1. A modular wheeled container system that is tilted from the free standing position for rolling comprising.
a) a wheeled container having a means for rolling
b) at least one attachable container, and
c) a means for securing adjoining said wheeled container to said attachable container.

CLAIM 5 IS DEPENDENT ON CLAIM 1 AND IS LIMITED TO TILTED FOR ROLLING
5. The system of claim 4 wherein said attached container is a recycle container on top of said refuse container.
6. The system of claim 5 wherein said means for securing said wheeled container to said attached container is a handle, telescope fit, groove, over center clasp, or latch.

7. The system of claim 6 wherein said handle is the handle described in US 4,691,840 FERBRACHE patent, whereby adjoining containers are secured and tilted for rolling containers are connected, but excluding securing lids onto containers.

CLAIM 7 IS DEPENDENT ON CLAIM 6 WHICH IS CLEARLY LIMITED TO SECURING CONTAINERS, NOT LIDS.
The applicant requests reconsideration and allowance of the claim 7 with regards to Tolbert in view of Evans and further in view of Ferbrache under 35 U.S.C. 103(a) according to reasons 1.-11. above.

CONCLUSION
For all of the above reasons, applicant submit that the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore applicant submits that this application is now in condition for allowance and which action is respectfully solicited.

CONDITIONAL REQUEST FOR CONSTRUCTIVE ASSISTANCE
Applicant has amended the specification and claims of this application so that they are proper, definite, and define novel structure which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance , applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. 2173.02 and 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,

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